



AGENDA

SPECIAL COUNCIL MEETING

TIME: 6.30 PM

23 NOVEMBER 2023

CITY OF STIRLING

*Constituent Members: Cities of Perth, Joondalup, Stirling, Vincent and Wanneroo
Towns of Cambridge and Victoria Park*



CITY OF VINCENT



**MINDARIE REGIONAL COUNCIL
NOTICE OF MEETING**

14 November 2023

Councillors of the Mindarie Regional Council are advised that a Special Council Meeting of the Council will be held at the City of Stirling at 6.30 pm on 23 November 2023.

The agenda pertaining to the meeting follows.

Your attendance is respectfully requested.



**SCOTT CAIRNS
CHIEF EXECUTIVE OFFICER**

MINDARIE REGIONAL COUNCIL - MEMBERSHIP

Cr P Miles (Paul) - Chair	City of Wanneroo
Deputy Chair - Vacant	
Cr A Jacob (Albert)	City of Joondalup
Cr C May (Christopher)	City of Joondalup
Cr L Gobbert, JP (Liam)	City of Perth
Cr A Creado (Andrea)	City of Stirling
Cr J Ferrante (Joe)	City of Stirling
Cr C Hatton (Chris)	City of Stirling
Cr S Proud (Stephanie)	City of Stirling
Cr A Castle (Alex)	City of Vincent
Cr J Wright (Jordan)	City of Wanneroo
Cr G Mack (Gary)	Town of Cambridge
Cr K Vernon (Karen)	Town of Victoria Park

NB: Although some Councils have nominated alternate members, it is a requirement that a Council carries a specific resolution for each occasion that the alternate member is to act.

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2 ELECTION OF DEPUTY CHAIRPERSON

Following the Local Government Elections on 21 October 2023, the position of Deputy Chairperson is now vacant.

The Chairperson will conduct an election in accordance with the *Local Government Act 1995* (schedule 9.3, Clause 10(c)) and s.709 (3) of the transitional provisions of the *Local Government Act 1960* (repealed).

3 ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

4 DECLARATION OF INTERESTS

Declaration of Financial/Conflict of Interest to be recorded prior to dealing with each item.

Disclosure of Financial and Proximity Interests

- (a) *Members must disclose the nature of their interest in matters to be discussed at the meeting. (Section 5.65 of the Local Government Act 1995).*
- (b) *Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the Local Government Act 1995).*

Disclosure of Interest Affecting Impartiality

- (a) *Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee has given or will give advice.*

5 PUBLIC QUESTION TIME

6 ANNOUNCEMENT BY THE PRESIDING PERSON

7 PETITIONS/DEPUTATIONS/PRESENTATIONS

8	CHIEF EXECUTIVE OFFICER REPORTS
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8.1	APPOINTMENT OF COUNCILLORS ON TO COMMITTEES AND OTHER GROUPS
File No:	GF-23-0000084
Attachment(s):	1. Audit and Risk Committee Details; 2. CEO Recruitment and Performance Review Committee Details; 3. Municipal Waste Advisory Council Details
Date:	23 October 2023
Responsible Officer:	Chief Executive Officer

SUMMARY

The purpose of this report is to seek the appointment of Councillors of the Mindarie Regional Council (MRC) to its committees and groups.

BACKGROUND

The MRC currently has two committees, established in accordance with Part 5.8 of the *Local Government Act 1995* (LGAct), and one advisory group that require Councillor Membership as follows:

- Audit and Risk Committee (established in accordance with the LGAct)
- Chief Executive Officer Recruitment and Performance Review Committee (established in accordance with the LGAct)
- Municipal Waste Advisory Council (established as part of the MRC's commitment to the Western Australia Local Government Association membership)

Attachments 1 to 3 to this agenda item provide details of the tenure, membership, duties and responsibilities associated with each of the committees and groups named above.

DETAILS

The recently held Local Government Elections have resulted in the need for the MRC to swear in new Councillors and re-appoint Councillors to its committees and other groups. The following provides a brief explanation of the purpose of the committees and groups:

Audit and Risk Committee

The Audit and Risk Committee is established under the LGAct and has prescribed duties and responsibilities (refer attachment). Prior to the recent local government elections this committee consisted of four elected members and an appointed independent member, and aims to meet three times per year. The Audit and Risk Committee Terms of Reference (ToR) allows for a minimum of three elected members, with no maximum.

The Administration provides secretarial support to the Committee and both the Chief Executive Officer and the Executive Manager Corporate Services attend the meetings to provide advice and guidance on the issues presented in the agendas.

Chief Executive Officer Recruitment and Performance Review Committee

This committee was established in 2017 to combine recruitment and performance into one single committee, consisting of five Councillors. The Chief Executive Officer's (CEO) performance is reviewed annually.

The committee is supported by an independent consultant who undertakes a survey of all Councillors and assists in the review of the CEO's performance in the previous year against pre-set performance measures and in the setting of performance measures for the next year. The consultant provides a performance report to the Committee following the survey to assist the Councillors in assessing the performance of the CEO.

Municipal Waste Advisory Council

The Municipal Waste Advisory Council (MWAC) was established in December 1994 as a Standing Committee of the Western Australian Local Government Association (WALGA) with delegated authority to represent the Association in respect of matters relating to municipal waste issues. MWAC was established under a partnership agreement with WALGA, Eastern Metropolitan Regional Council, City of Greater Geraldton, Mindarie Regional Council, Rivers Regional Council, Resource Recovery Group and Western Metropolitan Regional Council.

The objective of MWAC is to encourage and promote economically sound, environmentally safe waste management practices and to ensure that the shared interests of all Western Australian Local Governments, as they relate to waste management, are effectively managed. As MWAC is a standing committee of WALGA it requires councillor representation. An Officer Advisory Group (OAG) has also been established as an advisory committee to the MWAC which the MRC's CEO attends.

The MRC has historically appointed the Chairperson as its representative on MWAC as well as a deputy stand-in Councillor.

The next meeting takes place on Wednesday 13 December 2023 at 3pm – 4.30pm, in person at WALGA. An informal dinner and networking follows from 4.30 pm at a nearby venue.

LEGAL COMPLIANCE

Refer attachments 1 through to 3 to determine the varying compliance requirements of the Committees and the Groups.

FINANCIAL IMPLICATIONS

There is no remuneration attached to the positions on any of the MRC's Committees and/or Groups.

COMMENT

The Committees and Group are an integral part of the operations of the Mindarie Regional Council and report to Council to assist Council in its decision making responsibility.

VOTING REQUIREMENT

Absolute Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the Council:

1. Appoint Cr _____, Cr _____ Cr _____, and Cr _____ on to the Audit and Risk Committee.

(Absolute Majority Required)

2. Appoint Cr _____, Cr _____, Cr _____ Cr _____ and Cr _____ on to the Chief Executive Officer's Recruitment and Performance Review Committee.

(Absolute Majority Required)

3. Appoint Cr _____ as a member and Cr _____ as a Deputy Member on to the Municipal Waste Advisory Council.

(Absolute Majority Required)

ATTACHMENT 1

AUDIT AND RISK COMMITTEE

MEMBERSHIP/SUPPORT STAFF

Three Councillors (Minimum)
One Independent Member (Sourced from the Community)
MRC Chief Executive Officer (Support Staff)
MRC Executive Manager Corporate Services (Support Staff)

MEETING FREQUENCY

The Committee shall meet as and when required, and at a minimum at least once a year to:

- (a) to review and make recommendations to Council on the previous year's audited financials;
- (b) to review the MRC's risk register and MRC's response to the Statutory Compliance Audit Return required by the State Government and make recommendations to Council; and
- (c) to review the MRC's risk register.

DUTIES AND RESPONSIBILITIES

The duties and responsibilities of the Committee will be –

- (a) Provide guidance and assistance to Council as to carrying out the function of the Council in relation to audits.
 - (b) Review and recommend to Council –
 - a list of those matters to be audited; and
 - the scope of the audit to be undertaken.
 - (c) Meet with the OAG once in each year and provide a report to Council on the matters discussed and outcome of those discussions.
 - (d) Liaise with the CEO to ensure that the Local Government does everything in its power to –
 - assist the OAG to conduct the audit and carry out his or her other duties under the *Local Government Act 1995*; and
 - ensure that audits are conducted successfully and expeditiously.
 - (e) Examine the reports of the OAG after receiving a report from the CEO on the matters and –
 - determine if any matters raised require action to be taken by the Council; and
 - ensure that appropriate action is taken in respect of those matters.
 - (f) Review the report prepared by the CEO on any actions taken, in respect of any matters raised in the report of the OAG and present the report to Council for adoption prior to the end of the next financial year or six months after the last report prepared by the OAG is received, whichever is the latest in time.
 - (g) Review the scope of the audit plan and program and its effectiveness.
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- (h) Review the appropriateness of special internal audit assignments undertaken at the request of Council or CEO.
- (i) Review the level of resources allocated to internal audit and the scope of its authority.
- (j) Review reports of internal audits and monitor the implementation of recommendations made by OAG and review the extent to which Council and management reacts to matters raised.
- (k) Facilitate liaison between the internal auditor and the OAG to promote compatibility, to the extent appropriate, between their audit programs.
- (l) Review Council's draft annual financial report, focusing on:
- accounting policies and practices;
 - changes to accounting policies and practices;
 - the process used in making significant accounting estimates;
 - significant adjustments to the financial report (if any) arising from the audit process;
 - compliance with accounting standards and other reporting requirements; and
 - significant variances from prior years.
- (m) Consider recommending adoption of the financial report to Council.
- (n) Address issues brought to the attention of the Committee, including responding to requests from Council for advice that are within the parameters of the Committee's terms of reference.
- (o) Seek information or obtain expert advice through the CEO on matters of concern within the scope of the Committee's terms of reference following authorisation from the Council.
- (p) Review the annual Compliance Audit Return and report to the Council the results of that review.
- (q) Consider the CEO review of the appropriateness and effectiveness of the Council's systems and procedures in regard to risk management, internal control and legislative compliance, required to be provided to the Committee, and report to the Council the results of those reviews, in accordance with regulation 17 of the Local Government (Audit) Regulations 1996.
- (r) Monitor the progress of any major lawsuits facing the Council.
- (s) Perform an annual review of the MRC Risk Management Framework and the full risk register.
- (t) Perform a biannual review of the high risks identified in the Council's Risk Register.
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APPOINTMENT/TENURE Extract from Local Government Act 1995 “

5.10. Committee members, appointment of

- (1) *A committee is to have as its members —*
- (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
 - (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*
- * Absolute majority required.*
- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government. If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
- (a) *to be a member of the committee; or*
 - (b) *that a representative of the CEO be a member of the committee,*
- the local government is to appoint the CEO or the CEO’s representative, as the case may be, to be a member of the committee.*

5.11A. Deputy committee members

(1) *The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.*

**Absolute majority required.*

(2) *A person who is appointed as a deputy member of a committee is to be -*

(a) if the member of the committee is a council member – a council member; or

(b) if the member of the committee is an employee – an employee; or

(c) if the member of the committee is not a council member or an employee – a person who is not a council member or an employee; or

(d) if the member of the committee is a person appointed under section 5.10(5) – a person nominated by the CEO.

(3) *A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.*

(4) *A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member*

5.11. Committee membership, tenure of

(1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*

(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or

(b) the person resigns from membership of the committee; or

(c) the committee is disbanded; or

(d) the next ordinary elections day, whichever happens first.

(2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*

(a) the term of the person's appointment as a committee member expires; or

(b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or

(c) the committee is disbanded; or

(d) the next ordinary elections day, whichever happens first."

ATTACHMENT 2

CHIEF EXECUTIVE OFFICER'S RECRUITMENT AND PERFORMANCE REVIEW COMMITTEE

MEMBERSHIP/SUPPORT CONSULTANT

Minimum of four Councillors
Support HR Consultant
Independent Person

MEETING FREQUENCY

The Committee shall meet as frequently as is required each year for the CEO Performance Review process and as required for the CEO Recruitment Process.

DUTIES AND RESPONSIBILITIES

The duties and responsibilities of this committee are as follows:

CEO Performance Review

- a) Set Key Performance Indicators (KPIs) annually in discussion with the CEO and HR Consultant and assess the CEO's remuneration;
- b) Review the outcome of the:
 - Consultant report on the CEO's Performance based on:
 - the responses received by the Councillors on the survey prepared by the HR Consultant;
 - the report prepared by the CEO addressing performance against the KPI's set the previous year and addressing any other material issues affecting the performance of the CEO over the year; and
 - Assessment of the remuneration of the CEO.
- c) Periodically review the performance of the HR Consultant assisting the Committee; and
- d) Based on the Committee's review make recommendations to council on;
 - The level of performance of the CEO; and
 - The level of remuneration paid to the CEO, giving consideration to the Salaries and Allowances Tribunal (SAT) annual review of financial increases for CEO's and where the CEO sits on the Salary Band set by the SAT.

CEO Recruitment Process

- a) Review submissions from recruitment agencies (obtained by the MRC's HR Officer to assist the Committee in the recruitment process);
 - b) Make recommendations to council to the preferred recruitment agency;
 - c) Work with the preferred recruitment agency, with respect to content and timing, to advertise the CEO position;
 - d) Assess applications received for the CEO position (shortlisted by the successful recruitment agency);
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- e) Interview the shortlisted applicants together with a representative of the successful recruitment agency;
- f) Make a recommendation to council on the preferred candidate.
- g) Review the Chief Executive Officer job description form, selection criteria and the responsibilities of the position and make recommendation to Council; and
- h) Make recommendation to council as to the preferred independent person.

The CEO Recruitment Process and the CEO Performance Review to comply with the minimum standards as outlined in the Department of Local Government, Sport and Cultural Industries, *Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination*.

APPOINTMENT/TENURE Extract from Local Government Act 1995 “
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 - (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

** Absolute majority required.*
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- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
 - (a) *to be a member of the committee; or*
 - (b) *that a representative of the CEO be a member of the committee,*

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11A. Deputy committee members

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**Absolute majority required.*

(2) *A person who is appointed as a deputy member of a committee is to be -*

- (a) if the member of the committee is a council member – a council member; or*
- (b) if the member of the committee is an employee – an employee; or*
- (c) if the member of the committee is not a council member or an employee – a person who is not a council member or an employee; or*
- (d) if the member of the committee is a person appointed under section 5.10(5) - a person nominated by the CEO.*

(3) *A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.*

(4) *A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member*

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- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*
- (b) the person resigns from membership of the committee; or*
- (c) the committee is disbanded; or*
- (d) the next ordinary elections day, whichever happens first.*

(2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*

- (a) the term of the person's appointment as a committee member expires; or*
- (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or*
- (c) the committee is disbanded; or*
- (d) the next ordinary elections day, whichever happens first."*

ATTACHMENT 3

MUNICIPAL WASTE ADVISORY COUNCIL

MEMBERSHIP

One Councillor and a Deputy

MEETING FREQUENCY

Bi-Monthly

DUTIES AND RESPONSIBILITIES

General Functions of the MWAC

- a) The principal role of the MWAC in exercise of the delegated authority is to govern the Waste Management Area and to represent the interests of the Parties and Local Government generally, in all matters relating to local government waste management.
- (b) Without limiting the MWAC's principal role, the broad functions and responsibilities of the MWAC include:
 - (i) defining policy and providing the overall strategic direction of the Waste Management Area to achieve the interests of the Parties to this Partnership Agreement;
 - (ii) maintaining the MWAC as a credible, active and effective body in the area of waste management;
 - (iii) facilitating and encouraging cooperative linkages between Local, State and Federal Government, Regional Councils, Waste Management Resource Recovery (WMRR), Waste Authority, industry and the community;
 - (iv) representing the interests of the Association in all matters relating to local government waste management in accordance with the Association's policy statements and formal positions on an issue, and without prior reference to the Association where a formal Association position on an issue is not current or has not yet been developed PROVIDED THAT any such position is subsequently put to the Association as soon as practicable for confirmation;
 - (v) acting as an interface between the Parties to this Partnership Agreement and other local governments;
 - (vi) promoting economically sound, environmentally safe and socially inclusive waste management strategies;
 - (vii) coordinating and initiating research on waste management issues;
 - (viii) through the WALGA Executive Manager monitoring and evaluating the performance of the Executive Officer against established key performance indicators;
 - (ix) approving major operating plans, including the strategic plan;

- (x) approving the Annual Budget in accordance with the terms of this Partnership Agreement; and
 - (xi) ensuring the Waste Management Area complies with the law and the Association's operational policies and procedures.
- (c) Under the terms of the delegated authority, the MWAC may not make decisions:
- (i) concerning the acquisition, holding and disposition of real property or the borrowing of money or setting Association subscription levels;
 - (ii) that are inconsistent with an existing formal policy statement of the Association without prior reference to and the prior approval of the State Council; and
 - (iii) relating to operational matters as such matters remain the responsibility of the Executive Officer, reporting to the WALGA Chief Executive Officer or to their delegate.

APPOINTMENT/TENURE

Membership continues until notification is given to the other party advising of a change in the membership.

9 NEXT MEETING

The next Ordinary Council meeting is to be held on Thursday 30 November 2023 at the Town of Victoria Park commencing at 6.30 pm.

10 CLOSURE
